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## Animal Fighting Statutes (ARS)

- ARS 13-2901.01 – Animal Fighting
- ARS 13-2910.02 – Presence at an animal fight;
- ARS 13-1004 – Facilitation; classification
- ARS 13-1802 – Theft; classification
- ARS 32-2239 – Duty of veterinarian to report suspected participant of animal fighting or animal abuse; immunity

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### ARS 13-2910.01 Animal fighting; classification

- A.) A person commits animal fighting by knowingly:
1. Owning, possessing, keeping or training any animal knowing or having reason to know that the animal will engage in an exhibition of fighting with another animal.
  2. For amusement or gain, causing any animal to fight with another animal, or causing any animal to injure each other.
  3. Permitting any act in violation of paragraph 1 or 2 to be done on any premises under his charge or control.
- B.) Animal fighting is a **class 5 felony**.

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### ARS 13-2910.02 Presence at an animal fight

Any person who is knowingly present at any place or building where preparations are being made for an exhibition of the fighting of animals, or is present at such exhibition, is guilty of a **class 6 felony**.

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# COCKFIGHTING

- ARS 13-2910.03 and .04
- ARS 13-2910.01 and .02

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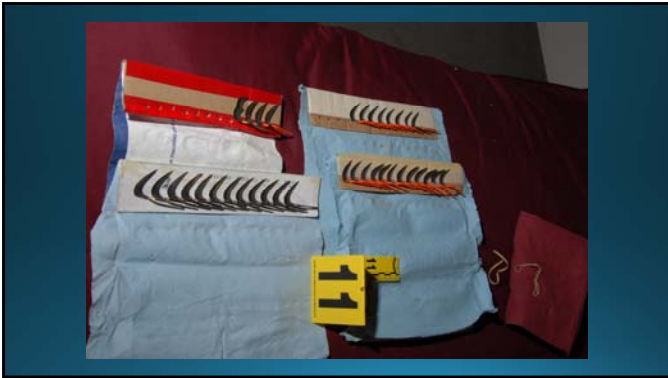
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## Evidence Collection

- Drugs (human and animal)
  - Vitamins, painkillers, speed, hormones and steroids
- Veterinary supplies
  - IV kits, syringes, sutures and needles, forceps, scalpels, and wound dressings
- Weapons
- Bills of sale, pedigrees and breeding records
- Trophies; publications; DVD's; websites devoted to these activities; gambling paraphernalia

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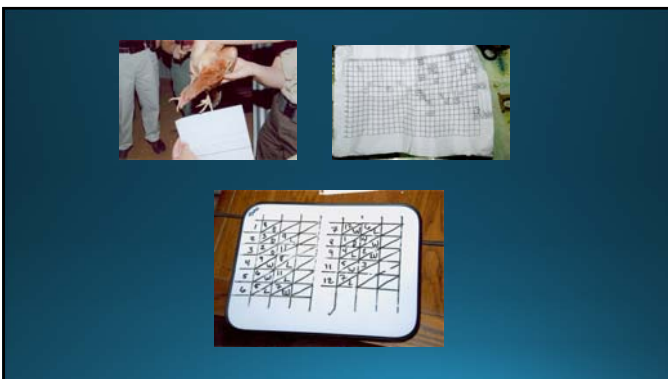
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## Evidence Collection - Veterinary

- Bite wound/injury analysis
- Injury photography and recording
- Treatment records
- Identification and use of drugs or other veterinary materials from the crime scene
- Necropsy

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## Importation of disease

- ARS 13-2912 Unlawful Introduction of Disease or Parasite
- Which constitutes a threat to livestock or poultry industries
- Class 5 felony
- Avian Flu and Newcastle's Disease

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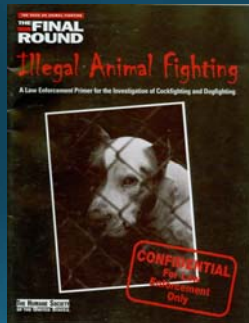
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## Animal Fighting Resources

- |                                  |                          |
|----------------------------------|--------------------------|
| • MARK KUMPF                     | • JOHN GOODWIN           |
| • National Animal Control Assoc. | • HSUS                   |
| • 937-264-5466 (Dayton, OH)      | • District of Columbia   |
| • SGT. DAVID HUNT                | • 301-258-3156           |
| • Franklin Co. S.O.              | • ERIC SAKACH            |
| • Columbus, Ohio                 | • HSUS                   |
| • 614-462-3360                   | • Sacramento, CA         |
|                                  | • 916-344-1710, ext. 121 |

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### ARS 13-1411 - Bestiality

- Knowingly engaging in oral sexual contact, sexual contact or sexual intercourse with an animal or causing another person to engage in such conduct
- Exemptions for accepted veterinary and breeding practices

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### ARS 13-1411 - Bestiality

- Animal means a non-human mammal, bird, reptile or amphibian
- Class 6 felony unless children are involved in which case it is a Class 3
- ARS 13-118 allegation for registration purposes
- Enhanced sentencing as a DCAC or lifetime probation

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### Has a sexual assault occurred?

- Injuries- severe to lethal, some lack abnormal findings
- Injuries can involve:
  - Anus, Perineal Area, Rectum, Colon
  - Vulva, Vagina, Uterus, Scrotum, Penis
- Any injury to anorectal region or genitalia qualifies as sexual abuse caused by sexual abuse/assault is also a basis for a charge of animal cruelty under 13-2910

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## EVIDENCE

- Rules 403 and 404: collections and websites
- Relevant to sexual interest in animals or a specific species
- Relevant to how to use certain animals
- All relevant to assist in establishing identity of the abuser, or the purpose of other items recovered such as restraints or other injuries the victim may have sustained – scars from those restraints or the removal of tails
- File motion under 403 & 404 (b) for admissibility re: “intent; preparation; plan; knowledge, identity or absence of mistake or accident”

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## A.R.S. § 13-1403

- Public Sexual Indecency
- “bestiality” in presence of others, reckless about whether the others might be offended
- Under 15-reckless about whether such a minor might be present = class 5 felony

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## a.r.s. § 13-3501, 13-3502, 13-3551

- Definition of Obscenity
- Possession of Obscene Items
- Class 5 felony
- Child pornography – Sexual Exploitation of a Minor – Class 2 felony; DCAC

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PRESERVE THE  
BODY FOR NECROPSY

Necropsy = animal autopsy, a post mortem exam.

If the animal is dead and you have reason to believe that mistreatment/neglect or sexual abuse has occurred the cause of death must be determined, therefore the body must be necropsied.

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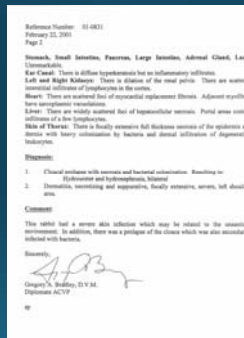
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## Caring for the victim

- Removal of the victim from the perpetrator – no problem if not the owner
- If owner, search warrant, plain view exception; emergency care needed = exigent circumstances
- Under recent case law from Oregon, may now need a search warrant to collect forensic samples; impt. in all cases involving the collection of forensic samples, including necropsies.
- Use local ordinances or A.R.S. § 13-4281 to seek a civil forfeiture of the victim
- File motion for a bond for medical/shelter expenses – owner relinquishment

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## CHARGING CONSIDERATIONS

- a count for each victim (can mix felony and misdemeanor charges)
- A count for each injury or violation e.g. broken leg and broken jaw = 2 charges; no water = 1 charge; no food = 1 charge; no shelter = 1 charge – all for the same victim
- Allegation of DV if applicable
- Allegation of Dangerous Nature
- Child Abuse in hoarding cases
- Prior convictions, of course.
- Look for “link evidence”; disclose and file 404(b) notice

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## defenses

- Competency and mental illness
- Identity
- Juveniles just “kidding around”
- DV cases – recantations
- Computer forensics – accidental downloads
- Necessary/unnecessary – discipline; training; defense of self; others or property
- It didn’t happen – no injury or injuries are from something else

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## PLEA NEGOTIATIONS

- Resist any temptation to dismiss the animal cruelty charge; OK to plead down to a misdemeanor?
- CONDITIONS: NO ANIMAL POSSESSION OR CUSTODY FOR AS LONG AS ON PROBATION
- Plead to as many charges as possible in order to maximize time without contact with animals=prison/jail followed by probation or consecutive periods of probation
- RESTITUTION FOR VETERINARY; NECROPSY COSTS
- Restitution for foster parents and others
- Random inspections

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## TRIAL CONSIDERATIONS

- Theme – victim entirely dependent for well-being on deft.; deft undertook to assume that responsibility and betrayed that responsibility and exploited her trust and dependency by beating Katie to within an inch of her life
- Theory – when he took that baseball bat; grabbed her buy her collar, held her down and rained blow after blow upon her helpless body – fracturing two of her legs, her ribs; her jaw and her skull...
- He beat her so badly, she almost lost an eye and one of her legs had to be amputated.
- So what, she has 3 more...

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## TRIAL CONSIDERATIONS

- SIMILAR TO CHILD ABUSE/HOMICIDE CASES WHERE YOUR VICTIM IS VOICELESS
- USUAL WITNESSES: EYEWITNESSES; "EAR" WITNESSES; LAW ENFORCEMENT; ANIMAL CARE/CONTROL OFFICERS; VETERINARIANS – TREATING AND EXPERT; ANIMAL BEHAVIORIST
- WEAPONS; RESTRAINTS; DIGITAL COLLECTIONS; WEBSITES ACCESSED
- "RAPE KITS"
- DNA ANALYSIS

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## TRIAL CONSIDERATIONS

- Other witnesses and Evidence:
- Family members
- Neighbors
- Crime scene photos (w/ measurements)
- Vet reports – with photos, x-rays, videos – showing victim at time of treatment
- Vet reports – with photos, videos documenting current condition or recovery
- Foster parents – documentation of current condition or recovery

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## TRIAL CONSIDERATIONS

- Rule 404(b) evidence:
- CPS reports, prior DV reports/cases
- Prior protective orders
- Prior animal abuse cases
- Jury nullification issues

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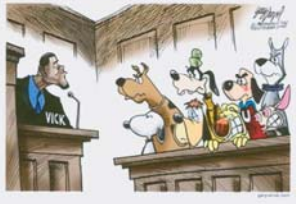
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Michael Vick jury selection




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## jury selection

- QUESTIONS RE: ANIMAL OWNERSHIP AND CARE:
- HOW MANY; WHAT KINDS; WHERE THE DOES THE PET SPEND MOST OF ITS TIME; GIVEN A PET AWAY; TAKE IT FOR WALKS OR TO THE DOG PARK; BREEDER; RESCUE; BUY THEM CHRISTMAS PRESENTS?
- EVER CALLED/INTERACTED WITH ANIMAL CARE & CONTROL
- WHOSE YOUR VETERINARIAN? IS THE ANIMAL'S CARE UP TO THE KIDS?
- NO SHRINKS OR SOCIAL WORKERS?
- HUNTERS AND LIVESTOCK OPERATORS

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<http://nationallinkcoalition.org/wp-content/uploads/2014/06/LinkLetter-2014-June.pdf>

## SENTENCING CONSIDERATIONS

- A.R.S. § 13-1411 provides: Court may order a psych assessment and counseling at deft's expense; reimbursement to a political subdivision – A.R.S. § 11-1022 – for reasonable costs incurred for care/maintenance for an animal taken to a shelter
- Restitution for others?
- Jail, prison or probation
- Prohibition on animal ownership/custody/care = inspections
- Court can designate as a misdemeanor
- Community service?
- Psych evals
- Victim impact statements
- Presentation of "link" evidence as aggravation

## INTERAGENCY OPERATIONS

- Enforcement Agents including Livestock Officers
- Local Animal Welfare Organizations particularly those who can transport/house large animals – Governmental or NGO's such as reputable rescue organizations
- Veterinarians
  - Arizona Game & Fish
- Federal Bureau of Investigation
- Arizona Veterinary Diagnostic Laboratory
- Animal Cruelty Task Forces